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"Insensitive advertising" of foreign domestic workers in Singapore: a violation of human dignity

Benjamin Joshua ONG
Singapore Management University, benjaminjong@smu.edu.sg

"Insensitive Advertising" of Foreign Domestic Workers in Singapore: A Violation of Human Dignity

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Socio-Economic Rights and Labour Rights

Singapore's Ministry of Manpower has suspended the licence of an employment agency for advertising the services of foreign domestic workers in an "insensitive" manner which portrayed the workers as a "commodity that can be bought and sold". It also prosecuted the agency and the employee responsible for the advertisements; the employee has pleaded guilty. The Ministry's actions are a welcome development in the evolution of the concept of a right to human dignity in Singapore law.

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Singapore's Constitution does not explicitly mention a right to human dignity. But that does not mean that no such right is recognised in Singapore law. To the contrary, the Singapore courts have invoked the concept of a right to dignity in a series of cases involving offences against foreign domestic workers (workers who live in their

employers' homes and perform domestic work). In a previous post on this blog, I discussed one such case: the 2017 case of *Lim Choon Hong and Chong Sui Foon*, in which the High Court of Singapore emphatically stated that foreign domestic workers have a right to "basic human dignity".

A recent case study demonstrates how not only the Judiciary, but also the Executive, has contributed to the development of the concept of a right to dignity in Singapore law in the context of foreign domestic workers.

Since 1958, employment agencies in Singapore must be licensed. In 1984, the relevant legislation (the Employment Agencies Act) was amended to state specifically that an employment agency's licence can be revoked if the agency acts "in a manner likely to be detrimental to the interests of [its] clients". However, the legislation does not specify exactly what this means.

In the face of this legislative omission, the Ministry of Manpower has taken it upon itself to interpret the phrase "detrimental to the interests of [an employment agency's] clients". In 2014, the Ministry issued a statement interpreting this phrase as including "insensitive advertising", such as "giv[ing] the impression that [foreign domestic workers] are being marketed as merchandise". The Ministry's justification for this view was that such advertising would fail to "accord [foreign domestic workers] basic respect and human dignity".

Notably, the Ministry chose to give these views the force of law by stating them in the form of an 'Alert'. Compliance with an 'Alert' is a compulsory condition of an employment agency's licence. A breach of this condition is not only grounds for the suspension of an employment agency's licence, but also a criminal offence.

The 'Alert' was the subject of a recent incident. In September 2018, the Ministry took notice of advertisements put up by an employment agency, SRC Recruitment LLP, on Carousell (an online marketplace which allows users to buy and sell items and services). These advertisements displayed the faces and personal information of Indonesian domestic workers, and described the workers using terms such as "fresh" and "sold".

In response, the Ministry, citing the 'Alert', suspended SRC Recruitment's licence and prosecuted SRC Recruitment and Erleena Mohd Ali, the employee who put up the advertisements. The case against SRC Recruitment is pending. Erleena has pleaded guilty and has been fined 20,000 Singapore dollars (£11,470) for various offences relating to the advertisements.

In her submissions to the court in Erleena's case, the prosecutor from the Ministry invoked the concept of "human dignity" again, saying: "Every foreign worker who comes to Singapore for work expects to be treated decently, and accorded the sort of guarantees of human dignity that we would accord to any human being." This quotation echoes language used in the judgment in *Lim Choon Hong and Chong Sui Foon*. This reference to Lim and Chong's case situates Erleena's case within the burgeoning line of case law on human dignity.

This case study is noteworthy for four reasons. First, it reflects the ongoing, sustained development of a concept of human dignity in Singaporean jurisprudence. Second, it demonstrates the Government's role as an active participant in this development: in particular, the Government recognises that the idea of workers' "interests" includes not only economic interests, but also the right to human dignity. Third, it suggests that the concept of dignity is wide enough to include not only physical health and well-being, but also matters such as the protection of personal data and the manner in which human beings are portrayed in public fora. Fourth, it makes clear that not only employers, but also employment agencies, may be found to be guilty of violations of workers' rights to dignity.

Author profile

Benjamin Joshua Ong is a Lecturer of Law (FDS) under the Faculty Development Scheme at the Singapore Management University. He holds the degrees of BA (Jurisprudence) and BCL from the
University of Oxford. His research interests include constitutional law, administrative law, and criminal justice.

Citations

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